

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

HORTON HOMES, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 2:07-cv-506-MEF
	)	
LARUE BANDY, MARIE BANDY,	)	
PATRICK PRITCHETT, WILLIAM	)	
SHANER, ELSIE FONDREN	)	
AVERETTE, WILLIAM CRUTHIRDS,	)	
and SHERRIE CRUTHIRDS,	)	
	)	
Defendants.	)	

**DEFENDANTS' PROPOSED DEPOSITION**

**TESTIMONY TO BE USED AT TRIAL**

COME NOW your Defendants in the above-styled cause and hereby list the following deposition testimony that they may use at the trial of this cause:

1. Excerpts from Steve Sinclair deposition attached as Exhibit "A."
2. Excerpts from 30(b)(6) deposition of Steve Sinclair attached as Exhibit "B."
3. Excerpts from Dudley Horton deposition attached as Exhibit "C."
4. 30(b)(6) deposition of Dudley Horton attached as Exhibit "D."
5. Excerpts of the deposition of Martin Fierman attached as Exhibit "E."
6. Excerpts of the deposition of Joseph Briley attached as Exhibit "F."
7. Excerpts of the deposition of R. W. Hicks, Jr. attached as Exhibit "G."

8. Excerpts of the deposition of Michael Thigpen attached as Exhibit  
“H.”

Respectfully submitted on this the 20<sup>th</sup> day of August, 2008.

/s/ Frank H. Hawthorne, Jr.  
FRANK H. HAWTHORNE, JR. (HAW012)  
Attorney for Defendants

OF COUNSEL:  
Hawthorne & Myers, LLC  
322 Alabama Street, Suite A  
Montgomery, AL 36104  
(334) 269-5010 / (334) 834-0080 Fax

Michael S. Harper  
P.O. Box 780608  
Tallassee, AL 36078  
(334) 283-6855  
(334) 283-6858 Fax

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this the 20<sup>th</sup> day of August, 2008, filed the above pleading/discovery electronically with the CM/ECF E-Filing System in Federal District Court. The below counsel will receive a copy from the system via email if registered in the system. If not, I certify that I have placed a copy of the same in the U.S. mail this day.

Sydney F. Frazier, Jr., Esq.  
Cabaniss, Johnston, Gardner, Dumas & O'Neal, LLP  
2001 Park Place North, Suite 700  
Birmingham, AL 35203

James L. Paul, Esq.  
Thomas C. Grant, Esq.  
Chamberlin, Hrdlicka, White, Williams & Martin  
191 Peachtree Street, N.E., 34<sup>th</sup> Floor  
Atlanta, GA 30303

/s/ Frank H. Hawthorne, Jr.  
OF COUNSEL

**Steve Sinclair Deposition**

Page 4, Lines 6-25  
Page 5, Lines 1-3 & 11-25  
Page 6, Lines 1-22  
Page 7, Lines 23-25  
Page 8, Lines 1-25  
Page 9, Lines 1-25  
Page 10, Lines 1-25  
Page 11, Lines 1-25  
Page 12, Lines 1-25  
Page 13, Lines 1-7 & 22-25  
Page 14, Lines 1-25  
Page 15, Lines 1-9  
Page 16, Lines 4-12  
Page 18, Lines 16-25  
Page 19, Lines 1-25  
Page 20, Lines 1-25  
Page 21, Lines 1-23  
Page 22, Lines 10-25  
Page 23, Lines 1-25  
Page 24, Lines 1-25  
Page 25, Lines 1-25  
Page 26, Lines 1-25  
Page 27, Lines 1-25  
Page 28, Lines 1-25  
Page 29, Lines 1-25  
Page 30, Lines 1-25  
Page 31, Lines 1-25  
Page 32, Lines 1-25  
Page 33, Lines 1-25  
Page 34, Lines 10-25  
Page 35, Lines 1-25  
Page 36, Lines 1-25  
Page 37, Lines 1-25  
Page 38, Lines 1-25  
Page 39, Lines 8-12  
Page 40, Lines 22-25  
Page 41, Lines 1-9  
Page 42, Lines 17-25  
Page 43, Lines 1-25  
Page 44, Lines 1-11 & 19-25  
Page 45, Lines 1-25  
Page 46, Lines 1-25  
Page 47, Lines 1-25

Page 48, Lines 1-25  
Page 49, Lines 1-15  
Page 51, Lines 9-25  
Page 52, Lines 1-24  
Page 55, Lines 13-25  
Page 56, Lines 1-25  
Page 57, Lines 1-25  
Page 58, Lines 1-25  
Page 59, Lines 1-25  
Page 60, Lines 1-25  
Page 61, Lines 1-25  
Page 62, Lines 1-17 & 25  
Page 63, Lines 1-6 & 20-25  
Page 64, Lines 21-25  
Page 65, Lines 1-25  
Page 66, Lines 1-25  
Page 67, Lines 1-25  
Page 68, Lines 1-20  
Page 69, Lines 9-20  
Page 70, Lines 22-25  
Page 71, Lines 1-7  
Page 72, Lines 12-20  
Page 73, Lines 6-11  
Page 84, Lines 11-25  
Page 85, Lines 1-24  
Page 86, Lines 10-25  
Page 87, Lines 1-10 & 18-25  
Page 88, Lines 1-25  
Page 89, Lines 1-2  
Page 106, Lines 1-25  
Page 107, Lines 1-25  
Page 108, Lines 1-17  
Page 110, Lines 21-25  
Page 111, Lines 1-25  
Page 112, Lines 1-25  
Page 113, Lines 1-20  
Page 115, Lines 1-25  
Page 116, Lines 1-25  
Page 117, Lines 1-10  
Page 125, Lines 3-23  
Page 126, Lines 12-19

**Steve Sinclair 30(b)(6) Deposition**

Page 2, Lines 2-5  
Page 7, Lines 1-16  
Page 12, Lines 10-18  
Page 15, Lines 7-25  
Page 16, Lines 24-25  
Page 17, Lines 1-25  
Page 18, Lines 1-5 & 25  
Page 19, Lines 1-25  
Page 20, Lines 1-4 & 13-22 & 24-25  
Page 21, Lines 1-2  
Page 23, Lines 17-25  
Page 24, Lines 1-2 & 21-25  
Page 25, Lines 1-11  
Page 31, Lines 13-25  
Page 32, Lines 1-12  
Page 36, Lines 20-24  
Page 37, Lines 6-8  
Page 38, Lines 10-13 & 24-25  
Page 39, Lines 1-2 & 12-17  
Page 51, Lines 23-25  
Page 52, Lines 1-24  
Page 53, Lines 6-18  
Page 57, Lines 18-25  
Page 58, Lines 1-8  
Page 59, Lines 24-25  
Page 60, Lines 1-25  
Page 61, Lines 1-25  
Page 62, Lines 1-25  
Page 63, Lines 1-25  
Page 64, Lines 1-25  
Page 65, Lines 1-25  
Page 66, Lines 1-15  
Page 67, Lines 5-25  
Page 68, Lines 1-12  
Page 69, Lines 22-25  
Page 70, Lines 1-8 & 22-25  
Page 71, Lines 1-6 & 12-14  
Page 76, Lines 5-11 & 16-25  
Page 77, Lines 1-4 & 13-25  
Page 78, Lines 1-14  
Page 79, Lines 1-14  
Page 80, Lines 2-18  
Page 83, Lines 12-25

Page 84, Lines 1-9 & 20-25  
Page 85, Lines 1-12  
Page 87, Lines 2-16 & 18-19  
Page 88, Lines 10-14  
Page 89, Lines 3-9 & 11-25  
Page 90, Lines 1-4 & 6 & 14-17  
Page 91, Lines 1-12  
Page 92, Lines 17-22  
Page 94, Lines 7-15  
Page 95, Lines 9-25  
Page 96, Lines 1-7 & 18-25  
Page 97, Lines 1-12  
Page 98, Lines 23-25  
Page 99, Lines 1-7  
Page 100, Lines 5-10 & 20-25  
Page 101, Lines 1-22  
Page 102, Lines 9-13  
Page 104, Lines 9-13 & 24-25  
Page 105, Lines 1-18  
Page 106, Lines 1-12 & 19-25  
Page 115, Lines 13-25  
Page 116, Lines 1-7  
Page 125, Lines 24-25  
Page 126, Lines 1-7  
Page 127, Lines 9-25  
Page 128, Lines 1-3 & 9-25  
Page 129, Lines 1 & 12-25  
Page 130, Lines 1-11 & 23-25  
Page 131, Lines 1-12

**Dudley Horton, Jr. Deposition**

Page 4, Lines 6-9	Page 41, Lines 1-25	Page 85, Lines 1-25
Page 9, Lines 17-25	Page 42, Lines 1-25	Page 86, Lines 1-5
Page 10, Lines 1-25	Page 49, Lines 1-25	Page 88, Lines 2-4
Page 11, Lines 1-25	Page 50, Lines 1-25	and 24-25
Page 12, Lines 1-25	Page 51, Lines 1-11	Page 89, Lines 1-6
Page 13, Lines 1-25	Page 53, Lines 6-25	and 16-25
Page 14, Lines 1-25	Page 54, Lines 1-25	Page 90, Lines 1-11
Page 15, Lines 1-25	Page 55, Lines 1-7	Page 92, Lines 23-25
Page 16, Lines 1-25	Page 60, Lines 3-25	Page 93, Lines 1-25
Page 17, Lines 1-25	Page 61, Lines 1-25	Page 94, Lines 1-25
Page 18, Lines 1-25	Page 62, Line 25	Page 95, Lines 21-25
Page 19, Lines 1-25	Page 63, Lines 1-25	Page 96, Lines 1-25
Page 20, Lines 1-7	Page 64, Lines 1-25	Page 97, Lines 1-25
Page 22, Lines 2-19	Page 65, Lines 1-2	Page 98, Lines 1-21
Page 23, Lines 10-25	Page 66, Lines 5-19	Page 100, Lines 9-25
Page 24, Lines 1-25	Page 67, Lines 18-25	Page 101, Lines 1-25
Page 25, Lines 1-25	Page 68, Lines 12-25	Page 102, Lines 1-25
Page 26, Lines 1-25	Page 69, Lines 1-25	Page 103, Lines 1-25
Page 27, Lines 1-25	Page 70, Lines 1-25	Page 104, Lines 1-12
Page 28, Lines 1-25	Page 71, Lines 1-25	and 19-25
Page 29, Lines 1-25	Page 72, Lines 1-25	Page 105, Lines 1-25
Page 30, Lines 1-25	Page 73, Lines 1-21	Page 106, Lines 1-25
Page 31, Lines 1-25	Page 74, Lines 7-25	Page 107, Lines 1-25
Page 32, Lines 1-25	Page 75, Lines 1-25	Page 108, Lines 1-8
Page 33, Lines 1-25	Page 76, Lines 1-25	Page 109, Lines 4-25
Page 34, Lines 1-25	Page 77, Lines 1-25	Page 110, Lines 1-25
Page 35, Lines 1-25	Page 78, Lines 1-10	Page 111, Lines 1-3
Page 36, Lines 1-25	Page 80, Lines 2-25	Page 125, Lines 8-25
Page 37, Lines 1-25	Page 81, Lines 1-25	Page 126, Lines 1-12
Page 38, Lines 1-25	Page 82, Lines 1-9	and 24-25
Page 39, Lines 1-25	Page 83, Lines 2-25	Page 127, Lines 1-16
Page 40, Lines 1-25	Page 84, Lines 1-25	Page 132, Lines 16-23

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

HORTON HOMES, INC.,

Plaintiff

vs.

LARUE BANDY, MARIE BANDY,  
 PATRICK PRITCHETT, WILLIAM  
 SHANER, ELSIE FONDREN AVERETTE,  
 WILLIAM CRUTHERDS, and SHERRIE  
 CRUTHERDS,

Defendants.

:  
:  
:  
: CIVIL ACTION NO.  
:  
: 2:07-CV-506(MEF)

-----  
MACON, GEORGIA      3:50 P. M.      MAY 21, 2008

The 30(b)(6) deposition of N. DUDLEY HORTON, JR. is being taken by the Defendants; testimony is given before Jeweldine Johnston, Georgia Certified Court Reporter A-89, in the offices of Hall, Bloch, Garland & Meyer, Suite 1500, 577 Mulberry Street, Macon, Georgia, on May 21, 2008, beginning at approximately 3:50 p. m.

-----

**Martin L. Fierman Deposition**

Page 5, Lines 1-19  
Page 8, Lines 24-25  
Page 9, Lines 1-9  
Page 11, Lines 1-16  
Page 12, Lines 24-25  
Page 13, Lines 1-12  
Page 14, Lines 11-23  
Page 19, Lines 20-25  
Page 20, Lines 4-17  
Page 21, Lines 3-25  
Page 22, Lines 1-25  
Page 23, Lines 1-11 and 17-24  
Page 25, Line 25  
Page 26, Lines 1-3 and 8-25  
Page 27, Lines 1-25  
Page 28, Lines 1-25  
Page 29, Lines 1-25  
Page 30, Lines 1-24  
Page 31, Lines 4-25  
Page 32, Lines 1-25  
Page 33, Lines 1-3  
Page 34, Lines 9-25  
Page 35, Lines 1-9 and 12-25  
Page 36, Lines 1-25  
Page 37, Line 1  
Page 38, Line 2-25  
Page 39, Line 1-25  
Page 40, Line 1-25  
Page 41, Lines 1-19  
Page 42, Lines 12-21  
Page 43, Lines 1-10  
Page 44, Lines 7-20  
Page 45, Lines 18-25  
Page 46, Lines 1-25  
Page 47, Lines 1-25  
Page 48, Lines 1-20  
Page 50, Lines 4-25  
Page 51, Lines 1-25  
Page 58, Lines 13-25  
Page 59, Lines 1 and 13-25  
Page 60, Lines 1-25  
Page 61, Lines 1-25  
Page 62, Lines 1-25

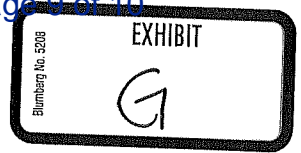
Page 63, Lines 1-21

**Joseph H. Briley Deposition**

Page 4, Lines 6-13  
Page 8, Lines 19-25  
Page 9, Lines 1-13  
Page 11, Lines 10-23  
Page 12, Lines 11-25  
Page 13, Lines 1-2  
Page 14, Lines 2-25  
Page 15, Lines 1-3 & 9-13  
Page 16, Lines 6-16  
Page 17, Lines 23-25  
Page 18, Lines 1-25  
Page 19, Lines 1 & 17-25  
Page 20, Lines 1-4 & 24-25  
Page 21, Lines 1-25  
Page 22, Lines 1-23  
Page 23, Lines 15-25  
Page 24, Lines 1-25  
Page 25, Lines 1-25  
Page 26, Lines 1-3  
Page 27, Lines 14-25  
Page 28, Lines 1-19

Page 29, Lines 10-13  
Page 30, Lines 5-16  
Page 31, Lines 5-25  
Page 32, Lines 1-19  
Page 33, Lines 3-25  
Page 34, Lines 1-25  
Page 35, Lines 1-25  
Page 36, Lines 1-8 & 19-25  
Page 37, Lines 1-25  
Page 38, Lines 1-25  
Page 39, Lines 1-25  
Page 40, Lines 1-8  
Page 42, Lines 7-14 & 22-25  
Page 43, Lines 1-16  
Page 44, Lines 5-25  
Page 45, Lines 1-6  
Page 46, Lines 20-25  
Page 47, Lines 1-13  
Page 48, Lines 10-18  
Page 54, Lines 12-25  
Page 55, Lines 1





**R. W. Hicks, Jr. Deposition**

Page 2, Lines 8-9 & 16-23  
Page 4, Lines 14-23  
Page 7, Lines 4-16  
Page 8, Lines 8-10 & 16-25  
Page 9, Lines 1-7  
Page 11, Lines 12-25  
Page 12, Lines 1-15  
Page 13, Lines 1-5  
Page 15, Lines 5-21 & 24-25  
Page 16, lines 1-14 & 22-25

Page 17, Lines 1-25  
Page 18, Lines 1-5 & 18-21  
Page 19, Lines 18-24  
Page 20, Lines 24-25  
Page 21, Lines 1-19  
Page 22, Lines 17-20  
Page 23, Lines 24-25  
Page 24, Lines 1-7  
Page 26, Lines 18-25  
Page 27, Lines 1-10

**Michael Thigpen Deposition**

Page 3, Lines 6-10  
Page 5, Lines 24-25  
Page 6, Lines 1-24  
Page 7, Lines 14-25  
Page 8, Lines 1-5 & 25  
Page 9, Lines 1-16  
Page 10, Lines 4-25  
Page 11, Lines 1-18  
Page 12, Lines 23-25  
Page 13, Lines 1-25  
Page 14, Lines 12-25  
Page 15, Lines 1-25  
Page 16, Lines 1-25  
Page 17, Lines 1-25  
Page 18, Lines 1-25  
Page 19, Lines 1-25  
Page 20, Lines 1-25  
Page 21, Lines 1-7  
Page 24, Lines 20-25  
Page 25, Lines 1-25

Page 26, Lines 1-15  
Page 30, Lines 8-25  
Page 31, Lines 1-25  
Page 32, Lines 1 & 10-25  
Page 33, Lines 1-25  
Page 34, Lines 1-25  
Page 35, Lines 1-25  
Page 36, Lines 1-25  
Page 37, Lines 1-25  
Page 38, Lines 1-13  
Page 43, Lines 1-25  
Page 44, Lines 1-25  
Page 45, Lines 1-25  
Page 46, Lines 1-6  
Page 51, Lines 14-20  
Page 60, Lines 18-25  
Page 61, Lines 1-25  
Page 62, Lines 1-3  
Page 70, Lines 6-11